IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.MC.No. 3575 of 2007()

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CC.202/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY
CRIME NO.75/07 OF CHOKLI POLICE STATION

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PETITIONERS:

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1. P.K. SHARAFUDDIN,
S/O. C.K. KHADER, AGED 27 YEARS,
`SAFA', KATTIMUKKU,
PERINJALAM AMSOM,
POOKOM DESOM, THALASSERY.

2. C.K. KHADER,
AGED 55 YEARS,
`SAFA', KATTIMUKKU,
PERINJALAM AMSOM,
POOKOM DESOM, THALASSERY.

3. SERINA,
W/O. KHADER, AGED 43 YEARS,
`SAFA', KATTIMUKKU,
PERINJALAM AMSOM,
POOKOM DESOM, THALASSERY.

4. RAIHANA,
W/O. RAHIM, AGED 25 YEARS,
`SAFA', KATTIMUKKU,
PERINJALAM AMSOM,
POOKOM DESOM, THALASSERY.

5. NAJILA,
W/O. NOUSHAD, 22 YEARS,
`SAFA', KATTIMUKKU,
PERINJALAM AMSOM,
POOKOM DESOM, THALASSERY.

6. LUBINA,
W/O. IBRAHIM, AGED 18 YEARS,
`SAFA', KATTIMUKKU,
PERINJALAM AMSOM,
POOKOM DESOM, THALASSERY.

BY ADV. SRI.C.P.PEETHAMBARAN
SRI.M.K.SHAJI

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTING S.H.O., CHOKLI POLICE STATION,
KANNUR DISTRICT, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. M.P. SABIRA,
D/O. ABOOBACKER, 18 YEARS,
HAJIRA MANZIL,
PANNIYANNOOR AMSOM,
CHAMBAD DESOM,
THALASSERY.

BY P.P. SRI. M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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Crl.M.C.No. 3575 of 2007

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Dated this the 29th day of November, 2007

**O R D E R**

The petitioners are accused in a prosecution under Section 498A r/w. 107 I.P.C. The case is pending before the J.F.M.C. Thalasserry. Cognizance has been taken on the basis of a final report submitted by the police after due investigation in a crime. That crime, in turn, was registered on the basis of a private complaint filed by the second respondent herein, which complaint was referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. The first petitioner is the husband of the defacto complainant/R2 and the other petitioners i.e. petitioners 2 to 6, are the relatives of the first petitioner.

2. The prosecution is pending before the Magistrate. The petitioners as well as the second respondent have now come before this Court together with a prayer that the prosecution against the petitioners may be quashed invoking the extra ordinary inherent jurisdiction under Section 482 Cr.P.C. as

enabled by the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C.

3. It is submitted that the marital tie between the first petitioner and the second respondent has now been dissolved and the second respondent/defacto complainant had contracted another marriage. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C. can be invoked.

4. This Crl.M.C. is hence allowed. C.C. No. 202 of 2007, pending before the Judicial First Class Magistrate, Thalasserry against the petitioners is hereby quashed.

**(R. BASANT)**
Judge

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